REMARKS

In the Office Action, the Examiner indicated that claims 1 through 30 are pending in the application and the Examiner rejected all claims.

Claim Rejections, 35 U.S.C. §103

On page 2 of the Office Action, the Examiner rejected claims 1-30 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/00575536 to Kasper, II et al. ("Kasper") in view of U.S. Patent No. 6,513,131 to Kanekawa et al. ("Kanekawa").

The Examiner has not Established a *prima facie* Case of Obviousness

As set forth in the MPEP:

> To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skilled in the art, to modify the reference or to combine reference teachings.
> MPEP 2143

In their response to Applicant's arguments, specifically the argument that Kasper in view of Kanekawa fails to teach detecting failures in a system, the Examiner states:

> "First, Examiner would like to bring Applicant attention to Kasper's apparatus and method for ***detecting failure*** and improving signatures from data stream via determining, comparing and executing processes as depicted in figures 2-3, abstract, col. 1 par. 0004-0006; col. 2, par. 0016; and col. 4, par. 0029. Kasper further explicitly teaches data/signature comparison process/flow via match/mismatch and ***detected functionalities in determining failure signature*** [col. 2, par. 0016 and col. 6, claim 1]. It is clearly that Kasper explicitly disclosed data/signature failure detection and recovery process via the signature comparison and management in figures 2-3. Kasper clearly demonstrated the ***applicant's detecting failures in a system*** limitation."

In this citation, the Examiner states multiple times that Kasper teaches detecting failures. Upon a complete review of Kasper, both the portions cited by the Examiner and not, Applicant respectfully disagrees with the Examiner. Kasper is a sequence detector which is specifically utilized to identify a particular numerical sequence occurring in a data stream. Kasper is limited to analyzing numerical patterns and looking for patterns that match a predetermined pattern. As set forth in paragraph 2, when an input signal matches one of the patterns (or signatures), the electronic circuit takes a selected action. Nothing in Kasper teaches or suggests detecting failures in a system; rather, Kasper is merely detecting patterns within a data signal and then causing an action to take place dependent upon which pattern has been detected.

Paragraph [0016], cited by the Examiner on numerous occasions, recites:

> "Embodiments of the present invention utilize an improved apparatus and/or method to correlate multiple signature patterns in an input datastream by utilizing a multiple sequence indexing correlator. Multiple sequence indexing correlators are indexing correlators that can match multiple signature patterns at once, utilizing the above indexing correlator apparatus and/or methodology. In a multiple sequence indexing correlator multiple signatures are matched/correlated at a single time to an input datastream."

Here, the basic functionality of the system taught by Kasper is explained. Received signatures are correlated and compared to stored signatures to find repeated signature segments. These correlation results are merely used to identify patterns in received data, not to detect failures as is specifically claimed in the present invention.

Additionally, the Examiner cites Figures 2 and 3 as teaching detecting system failures (while failing to particularly point out any specific step where failure detection occurs). Upon review of both Figures 2 and 3, and the accompanying detailed description, there is no discussion of detecting

system failures based upon signature comparison and performing corrective measures if a failure is detected, as is specifically claimed in the present invention. The only steps in either Figure that deal with a signature comparison are not used to detect failures, but rather portions of the data streams that do not repeat previously transmitted signatures.

Nowhere in Kasper is a citation found where any type of failure detection is discussed. Applicant respectfully requests the Examiner to specifically point out, and quote, citations in Kasper where failure detection based upon a comparison of signature samples as is specifically claimed in the present invention is discussed. Likewise, Kanekawa contains no such teaching or suggestion.

Without such a teaching or suggestion, the combination proposed by the Examiner is inappropriate for a rejection under 35 U.S.C. §103. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims based on the Kasper/Kanekawa combination.

Conclusion

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 19-5425.

Respectfully submitted

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/John R. Brancolini/
John R. Brancolini
Registration No. 57,218

SYNNESTVEDT & LECHNER LLP
2600 ARAMARK Tower
1101 Market Street
Philadelphia, PA 19107

Telephone: (215) 923-4466
Facsimile: (215) 923-2189